

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

X-----X

THOMAS BABA, ET AL.,

Plaintiffs,

-against-

BEVERLY HILL CEMETERY CORPORATION,  
INC.,

Defendant.

X-----X

15 CIVIL 5151 (CM)

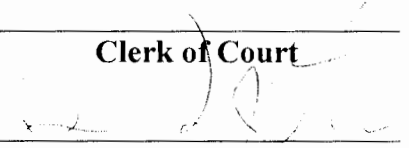
**RULE 68 JUDGMENT**

Whereas defendant Beverly Hills Cemetery Corporation, Inc. (“Beverly Hills”), having offered to allow judgment to be taken against it in favor of Plaintiff Thomas Baba and Opt-In Plaintiffs, John Koebek, Kim Brophy, Maureen Hildebrand, Jesse Goldstein, and Martin Shapiro, (Baba and Opt-In Plaintiffs, collectively (“Plaintiffs”)) and against Beverly Hills in this action in the amount of \$100,000.00, inclusive of damages, attorneys’ fees’ litigation expenses and costs of suit incurred by the plaintiff class in relation to this action; this Offer of Judgment is made by Beverly Hills to fully and finally resolve all claims against Beverly Hills in this action; such claims include but are not limited to: (i) claims under the Fair Labor Standards Act (“FLSA”) for unpaid minimum wages, unpaid overtime, liquidated damages, statutory penalties, attorneys’ fees and costs; (ii) claims under the New York Labor Law (“NYLL”) for unpaid minimum wages, unpaid overtime, unlawful wage deductions, liquidated damages, statutory penalties, attorneys’ fees and costs; Plaintiffs’ attorney having accepted the offer of judgment on March 18, 2016; on March 31, 2016, the Court having issued a Memorandum Order directing the Clerk of the Court NOT to enter judgment on the accepted offer, but to hold the matter in abeyance while this Court considers the potential applicability of the Second Circuit’s decision in *Cheeks v. Freeport Pancake House, Inc.*, 796 F. 3d 199 (2d Cir. 2015) to the resolution of an FLSA case using the vehicle of a Rule 68 Offer of Judgment, and the matter having come before the Honorable Colleen McMahon, United States

District Judgment, and the Court, on May 9, 2016, having rendered its Memorandum Order to the Clerk of Court, granting the Motion for an Order to the Clerk of Court to enter judgment on the Accepted Rule 68 Offer of Judgment, and directing the Clerk of Court to enter judgment on the Rule 68 offer, it is,

**ORDERED, ADJUDGED, AND DECREED**, That pursuant to the Offer of Judgment dated March 15, 2016, Notice of Acceptance of Offer of Judgment dated March 18, 2016, and Memorandum Order to the Clerk of Court dated May 9, 2016, the Motion for an Order to the Clerk of Court to enter judgment on the Accepted Rule 68 Offer of Judgment is granted; accordingly, plaintiffs Thomas Baba, John Kobeck, Kim Brophy, Maureen Hildebrand, Jesse Goldstein, and Martin Shapiro have judgment in the amount of \$100,000.00 as against the defendant Beverly Hills, inclusive of damages, attorneys' fees' litigation expenses and costs of suit, and the case is closed.

**DATED:** New York, New York  
May 10 , 2016

**RUBY J. KRAJICK**  
\_\_\_\_\_  
**Clerk of Court**  
**BY:**   
\_\_\_\_\_  
**Deputy Clerk**

**THIS DOCUMENT WAS ENTERED  
ON THE DOCKET ON \_\_\_\_\_**